

KAMS600007472018



FDP/2/2018

IN THE COURT OF SENIOR CIVIL JUDGE,

PERIYAPATNA

Present

Sri.A.SAMIULLA

B.Sc., LL.B.,

Senior Civil Judge,

Periyapatna.

Dated: 6th Day of January 2023

FDP.No.02 of 2018

Between:

- 1.** Smt.Sannamma d/o late Giddegowda,
w/o late Sannamarigowda,
Age: 79 years, Occ: Agriculture
r/o Amblare Village & Post,
Haranahalli Hobli, Periyapatna Taluk
Mysore District.
- 2.** Smt.Puttamma d/o Late Giddegowda,
w/o Late Venkategowda, Age: 73 years,
r/o Rajanabilaguli Village & Post,
Haranahalli Hobli, Periyapatna Taluk,
Mysore District.

.....Petitioners/Plaintiffs.

(By Sri.CKM)

And:

1. Smt.Doddamma d/o Late Giddegowda,
w/o Late Doddamarigowda, Age: 81 years,
Occ: Agriculture, R/o Bilagunda Village,
Nilavadi Post, Haranahalli Hobli,
Periyapatna Taluk, Mysore District.
2. Smt.Boramma d/o Late Giddegowda
w/o Sannaswamygowda, Age : 70 years,
Occ: Agriculture, R/o Sangarashettihalli,
Village & Post, Bettadapura Hobli,
Periyapatna Taluk, Mysore District.
3. Sri.Boregowda s/o Late Giddegowda,
Age : 67 years, Occ : Agriculture
R/o Bilagunda Village,
Nilavadi Post, Haranahalli Hobli,
Periyapatna Taluk, Mysore District.
4. Sri.Balaramegowda s/o Late Doddamarigowda,
Age : 54 years, Occ: Agriculture,
R/o Bilagunda Village,
Nilavadi Post, Haranahalli Hobli,
Periyapatna Taluk, Mysore District.
5. Sri.Lokesha s/o Late Doddamarigowda,
Age : 50 years, Occ: Agriculture,
R/o Bilagunda Village,
Nilavadi Post, Haranahalli Hobli,
Periyapatna Taluk, Mysore District.
6. Sri.Thimmegowda s/o Late Doddamarigowda,
Age : 42 years, Occ: Agriculture,
R/o Bilagunda Village,
Nilavadi Post, Haranahalli Hobli,
Periyapatna Taluk, Mysore District.

...Respondents/Defendants.

(R1 to 6 by Sri.KSD

P/R by Sri JSN)

ORDER

Petition is filed under Section 54 CPC seeking to draw final decree by virtue of preliminary decree passed in OS.No.11/14, wherein it is ordered that the plaintiffs-1 & 2 are entitled for 1/8th share each in the suit items-1 to 11; defendants-1 & 4 to 6 are jointly entitled for 1/8th share; defendant-2 is entitled for 1/8th share and defendant-3 is entitled for 1/2 share in the suit items-1 to 11. Suit is dismissed in respect of suit item-12.

2. To make out a scheme of partition as per preliminary decree the Taluk Surveyor was appointed as Court Commissioner to measure the suit lands (suit items-1 to 4) and Assistant Engineer, PWD was appointed as Court Commissioner to measure and to make a scheme of partition in respect of suit items-5 to 11. Commission was issued. After commission work

Taluk Surveyor submitted report, wherein he has allotted only 1/8th share to the petitioners instead of allotting 1/8th share each and he has not shown the portions to be allotted to the defendants as per preliminary decree. These facts manifest that commission work is not in accordance with the preliminary decree. The Assistant Engineer, PWD submitted report stating that the measurement of properties shown in the preliminary decree does not tally with the actual measurement of properties at the spot; by assigning this reason the commission work is not done. Petitioners objected the commissioner reports by highlighting above defects. In the light of facts *supra* this Court proceeds to pass the following;

ORDER

Commissioner Reports are rejected.

Taluk Surveyor, Periyapatna to measure the suit

lands (suit items-1 to 4) in accordance with preliminary decree & to make out a scheme of partition showing the portion of lands allotted to the plaintiffs as well as defendants as per preliminary decree.

Assistant Engineer, PWD, Periyapatna is directed to measure the suit items-5 to 11 by considering the actual available measurement on the spot & to make out a scheme of partition as per preliminary decree.

Court Commissioner fee is tentatively fixed at Rs.3,000/- each.

Issue commission warrant.

(Dictated to the Stenographer, directly typed by her on computer, script corrected by me and then pronounced in the open court on this the 06.01.23).

sd/-
(A SAMIULLA)
Senior Civil Judge,
Periyapatna.